21 June 2000

Original: English

Preparatory Commission for the International Criminal Court
Working Group on Rules of Procedure and Evidence
New York
13-31 March 2000
12-30 June 2000
27 November-8 December 2000

Report of the Working Group

Chapter 14
International cooperation and judicial assistance

Section I
Requests for cooperation under article 87

Rule 9.1
Organs of the Court responsible for the transmission and receipt of any communications relating to international cooperation and judicial assistance

1. Upon and subsequent to the establishment of the Court, the Registrar shall obtain from the Secretary-General of the United Nations any communication made by States pursuant to article 87, paragraphs 1 (a) and 2.

2. The Registrar shall transmit the requests for cooperation made by the Chambers and shall receive the responses, information and documents from requested States. The Office of the Prosecutor shall transmit the requests for cooperation made by the Prosecutor and shall receive the responses, information and documents from requested States.

3. The Registrar shall be the recipient of any communication from States concerning subsequent changes in the designation of the national channels charged with receiving requests for cooperation, as well as of any change in the language in which requests for cooperation should be made, and shall, upon request, make such information available to States Parties as may be appropriate.

00-49295 (E)

4. The provisions of sub-rule 2 are applicable *mutatis mutandis* where the Court requests information, documents or other forms of cooperation and assistance from an intergovernmental organization.

5. The Registrar shall transmit any communications referred to in sub-rules 1 and 3 and rule 9.2, sub-rule 2, as appropriate, to the Presidency or the Office of the Prosecutor, or both.

Rule 9.2
Channels of communication

1. Communications concerning the national authority charged with receiving requests for cooperation made upon ratification, acceptance, approval or accession shall provide all relevant information about such authorities.

2. When an intergovernmental organization is asked to assist the Court under article 87, paragraph 6, the Registrar shall, when necessary, ascertain its designated channel of communication and obtain all relevant information relating thereto.

Rule 9.3
Language chosen by States Parties under article 87, paragraph 2

1. When a requested State Party has more than one official language, it may indicate upon ratification, acceptance, approval or accession that requests for cooperation and any supporting documents can be drafted in any one of its official languages.

2. When the requested State Party has not chosen a language for communication with the Court upon ratification, acceptance, accession or approval, the request for cooperation shall either be in or be accompanied by a translation into one of the working languages of the Court pursuant to article 87, paragraph 2.

Rule 9.4
Language of requests directed to States not party to the Statute

When a State not party to the Statute has agreed to provide assistance to the Court under article 87, paragraph 5, and has not made a choice of language for such requests, the requests for cooperation shall either be in or be accompanied by a translation into one of the working languages of the Court.

Rule 9.5
Changes in the channels of communication or the languages of requests for cooperation

1. Changes concerning the channel of communication or the language a State has chosen under article 87, paragraph 2, shall be communicated in writing to the Registrar at the earliest opportunity.

2. Such changes shall take effect in respect of requests for cooperation made by the Court at a time agreed between the Court and the State or, in the absence of such an agreement, 45 days after the Court has received the communication and, in all cases, without prejudice to current requests or requests in progress.

Section II
Surrender, transit and competing requests under articles 89 and 90

Rule 9.6
Challenge to admissibility of a case before a national court

When a situation described in article 89, paragraph 2, arises, and without prejudice to the provisions of article 19 and of rules 2.14 to 2.18 on procedures applicable to challenges to the jurisdiction of the Court or the admissibility of a case, the Chamber dealing with the case, if the admissibility ruling is still pending, shall take steps to obtain from the requested State all the relevant information about the *ne bis in idem* challenge brought by the person.

Rule 9.7
Request for transit under article 89, paragraph 3 (e)

1. In situations described in article 89, paragraph 3 (e), the Court may transmit the request for transit by any medium capable of delivering a written record.

2. When the time limit provided for in article 89, paragraph 3 (e), has expired and the person concerned has been released, such a release is without prejudice to a subsequent arrest of the person in accordance with the provisions of article 89 or article 92.

Rule 9.8
Possible temporary surrender

Following the consultations referred to in article 89, paragraph 4, the requested State may temporarily surrender the person sought in accordance with conditions determined between the requested State and the Court. In such case the person shall be kept in custody during his or her presence before the Court and shall be transferred to the requested State once his or her presence before the Court is no longer required, at the latest when the proceedings have been completed.

Rule 9.9
Arrangements for surrender

1. The requested State shall immediately inform the Registrar when the person sought by the Court is available for surrender.

2. The person shall be surrendered to the Court by the date and in the manner agreed upon between the authorities of the requested State and the Registrar.

3. If circumstances prevent the surrender of the person by the date agreed, the authorities of the requested State and the Registrar shall agree upon a new date and manner by which the person shall be surrendered.

4. The Registrar shall maintain contact with the authorities of the host State in relation to the arrangements for the surrender of the person to the Court.

Rule 9.9 *bis*
Release of a person from the custody of the Court other than upon completion of sentence

[See document PCNICC/2000/WGRPE/L.14/Add.1]

Rule 9.10
Competing requests in the context of a challenge to the admissibility of the case

In situations described in article 90, paragraph 8, the requested State shall provide the notification of its decision to the Prosecutor in order to enable him or her to act in accordance with article 19, paragraph 10.

Section III
Documents for arrest and surrender under articles 91 and 92

Rule 9.11
Translation of documents accompanying request for surrender

For the purposes of article 67, paragraph 1 (a), and in accordance with rule 5.15, sub-rule 1, the request under article 91 shall be accompanied, as appropriate, by a translation of the warrant of arrest or of the judgement of conviction and by a translation of the text of any relevant provisions of the Statute, in a language that the person fully understands and speaks.

Rule 9.12
Time limit for submission of documents after provisional arrest

For the purposes of article 92, paragraph 3, the time limit for receipt by the requested State of the request for surrender and the documents supporting the request shall be 60 days from the date of the provisional arrest.

Rule 9.13
Transmission of documents supporting the request

When a person has consented to surrender in accordance with the provisions of article 92, paragraph 3, and the requested State proceeds to surrender the person to

the Court, the Court shall not be required to provide the documents described in article 91 unless the requested State indicates otherwise.

Section IV
Cooperation under article 93

Rule 9.14
Instruction on self-incrimination accompanying request for witness

When making a request under article 93, paragraph 1 (e), with respect to a witness, the Court shall annex an instruction, concerning rule 6.9 relating to self-incrimination, to be provided to the witness in question, in a language that the person fully understands and speaks.[1]

Rule 9.16
Assurance provided by the Court under article 93, paragraph 2

The Chamber dealing with the case, on its own motion or at the request of the Prosecutor, defence or witness or expert concerned, may decide, after taking into account the views of the Prosecutor and the witness or expert concerned, to provide the assurance described in article 93, paragraph 2. If the Chamber considers it appropriate, it may invite and consider the views of the victims or their legal representatives participating in the proceedings pursuant to rules 6.30 to 6.30 *ter* before deciding on the assurance.

Rule 9.15
Transfer of a person in custody

1. Transfer of a person in custody to the Court in accordance with article 93, paragraph 7, shall be arranged by the national authorities concerned in liaison with the Registrar and the authorities of the host State.

2. The Registrar shall ensure the proper conduct of the transfer, including the supervision of the person while in the custody of the Court.

3. The person in custody before the Court shall have the right to raise matters concerning the conditions of his or her detention with the relevant Chamber.

4. In accordance with article 93, paragraph 7 (b), when the purposes of the transfer have been fulfilled, the Registrar shall arrange for the return of the person in custody to the requested State.

---

1 [81] This rule should be reconsidered in the light of the discussion on rule 6.9.

Rule 9.18
Temporary transfer of the person from the State of enforcement

1. The Chamber that is considering the case may order the temporary transfer from the State of enforcement to the seat of the Court of any person sentenced by the Court whose testimony or other assistance is necessary to the Court. The provisions of article 93, paragraph 7, shall not apply.

2. The Registrar shall ensure the proper conduct of the transfer, in liaison with the authorities of the State of enforcement and the authorities of the host State. When the purposes of the transfer have been fulfilled, the Court shall return the sentenced person to the State of enforcement.

3. The person shall be kept in custody during his or her presence before the Court. The entire period of detention spent at the seat of the Court shall be deducted from the sentence remaining to be served.

Rule 9.17
Cooperation requested from the Court

1. In accordance with article 93, paragraph 10, and consistent with article 96, *mutatis mutandis*, a State may transmit to the Court a request for cooperation or assistance to the Court, either in or accompanied by a translation into one of the working languages of the Court.

2. Requests described in sub-rule 1 are to be sent to the Registrar, which shall transmit them, as appropriate, either to the Prosecutor or to the Chamber concerned.

3. If protective measures within the meaning of article 68 have been adopted, the Prosecutor or Chamber, as appropriate, shall consider the views of the Chamber which ordered the measures as well as those of the relevant victim or witness, before deciding on the request.

4. If the request relates to documents or evidence as described in article 93, paragraph 10 (b) (ii), the Prosecutor or Chamber, as appropriate, shall obtain the written consent of the relevant State before proceeding with the request.

5. When the Court decides to grant the request for cooperation or assistance from a State, the request shall be executed, insofar as possible, following any procedure outlined therein by the requesting State and permitting persons specified in the request to be present.

Section V
Cooperation under article 98

Rule 9.19
Provision of information

When a requested State notifies the Court that a request for surrender or assistance raises a problem of execution in respect of article 98, the requested State shall provide any information relevant to assist the Court in the application of

article 98. Any concerned third State or sending State may provide additional information to assist the Court.[2]

Section VI
Rule of speciality under article 101

Rule 9.20
Provision of views on article 101, paragraph 1

A person surrendered to the Court may provide views on a perceived violation of the provisions of article 101, paragraph 1.

Rule 9.21
Extension of the surrender

When the Court has requested a waiver of the requirements of article 101, paragraph 1, the requested State may ask the Court to obtain and provide the views of the person surrendered to the Court.

---

2 (83) One delegation has proposed an addition to the rule related to article 98.